

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

**IN RE: AQUEOUS FILM-FORMING
FOAMS PRODUCTS LIABILITY
LITIGATION**

MDL No. 2:18-mn-2873-RMG

Case Management Order No. 5F

**This Document relates to
ALL CASES**

TURNOUT GEAR PLAINTIFF FACT SHEETS

1. Per the Court’s instruction (Dkt. 3362 at 3 n.1), the parties met and conferred and believe that a turnout gear (“TOG”)-specific Plaintiff Fact Sheet (“PFS”) would be beneficial to this MDL. The Plaintiffs’ Executive Committee, Defense Coordinating Committee, TOG Plaintiffs, and the TOG Defendants agree as to the form of a PFS to be completed for all Member Actions brought by any TOG Plaintiff(s) against any TOG Defendant(s), including any Member Action(s) filed in or transferred to MDL 2873 after the date of this order. The TOG PFS must be completed only by Plaintiffs who bring claims against any TOG Defendant(s). For the avoidance of doubt, those Plaintiffs are separately also required to complete the Individual Plaintiff Personal Injury Fact Sheet pursuant to Case Management Order No. 5 (Dkt. 205).

2. A copy of the blank form of the TOG PFS is attached as Exhibit A. TOG Defendants shall email to the PEC a native (.docx) copy compatible with currently supported versions of Microsoft Word (Word 2016 through Word for Office 365 versions) for Plaintiffs to complete and serve (“TOG PFS”).

3. Case Management Orders No. 5, 5A, 5B, and 5E (collectively “CMO No. 5”) govern certain requirements for the form, procedure, and schedule to complete and serve PFSs as to all Member Actions of MDL 2873. The provisions of CMO No. 5 are incorporated herein with respect to the TOG PFS; provided that with respect to CMO 5B, TOG Defendants may elect to

retain (at their own expense) an independent third-party vendor to ingest and abstract data from the TOG PFSs and review the TOG PFS responses for deficiencies. If and to the extent TOG Defendants do so, then Litigation Management, Inc. (“LMI”) shall not perform those particular functions for TOG PFSs; however, TOG Defendants shall not be otherwise relieved of the other, non-duplicative shared costs of CMO 5B, including non-duplicative costs from CMO 5B, including but not limited to fees incurred by defendants associated with LMI hosting PFSs, TOG PFSs, and other litigation data, and shall export the ingested TOG PFS data to LMI for the access, use, and analysis of other defendants on that platform. On behalf of Defendants’ Liaison, a TOG Defendant who has been appointed to the Defense Coordinating Committee, or its designee, shall be authorized to follow the process and procedures for any delinquent or deficient TOG PFSs as outlined in CMO 5, including notification of those delinquencies and deficiencies, meet-and-confers with plaintiffs’ counsel, and any motions to compel and dismiss relating to those TOG PFSs that the Defense Co-Leads have consented to pursuant to the terms of CMO 2. This CMO 5F does not waive the right of the Co-Lead/Co-Liaison Counsel or the Defense Coordinating Committee to raise deficiencies as to any TOG PFS. Counsel for TOG defendants shall keep Defense Co-Lead/Co-Liaison Counsel or their designees apprised of such deficiencies and any meet and confers with Plaintiffs’ counsel.

4. TOG Plaintiffs whose cases are docketed in this MDL as of the date of this Order shall serve their completed TOG PFS, together with records, if any, called for in the TOG PFS, according to the following schedule:

Event	Deadline
20% of TOG Plaintiffs serve TOG PFS papers	120 days after Court approves this Order and TOG Defendants transmit the native copy of the TOG PFS per paragraph 2 above
50% of TOG Plaintiffs serve TOG PFS papers	200 days after Court approves this Order and TOG Defendants transmit the native copy of the TOG PFS per paragraph 2 above

75% of TOG Plaintiffs serve TOG PFS papers	280 days after Court approves this Order and TOG Defendants transmit the native copy of the TOG PFS per paragraph 2 above
100% of TOG Plaintiffs serve TOG PFS papers	360 days after Court approves this Order and TOG Defendants transmit the native copy of the TOG PFS per paragraph 2 above

5. Any TOG Plaintiff(s) whose cases are docketed in this MDL after the date of this Order shall have 98 days from the date the Court docketed a direct-filed or transferred action into MDL 2873 to serve their completed TOG PFS, together with (as applicable) completed and signed medical authorizations and records called for in the TOG PFS.

6. Plaintiffs must type responses into the TOG PFS, unless Plaintiffs are not represented by counsel and unable to use a suitable computer, in which case those Plaintiffs may submit a completed TOG PFS in a fully legible form. Service of completed TOG PFSs and associated materials, if any, shall be made by email in accordance with CMO 5 (Dkt. 205) and with a copy emailed to AFFF-TOG-PFS-Service@Dechert.com.

AND IT IS SO ORDERED.

s/Richard Mark Gergel
Richard Mark Gergel
United States District Judge

February 26, 2024
Charleston, South Carolina